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17 **UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

18 SKYLIGHTS LLC,
19 Plaintiff,
20 vs.

CASE NO. 2:15-cv-00043-GMN-VCF

21 DAVID BYRON; et al.,
22 Defendants.
23 and

**STIPULATION AND [PROPOSED]
ORDER SEEKING A FINAL JUDGMENT
PURSUANT TO RULE 54(B)**

24 FEDERAL HOUSING FINANCE AGENCY,
25 as Conservator for the Federal National
26 Mortgage Association,

27
28 Intervenor.

1 FEDERAL NATIONAL MORTGAGE
2 ASSOCIATION,

3 Counterclaimant,
and

4 FEDERAL HOUSING FINANCE AGENCY,
5 as Conservator for the Federal National
Mortgage Association,

6 Intervenor,
vs.

7 SKYLIGHTS LLC; THE FALLS AT
8 RHODES RANCH CONDOMINIUM
OWNERS ASSOCIATION, INC.,

9 Counter-defendants.

11 Plaintiff Skylights LLC, Defendant Federal National Mortgage Association (“Fannie
12 Mae”), Intervenor Federal Housing Finance Agency (“FHFA”), as Conservator for Fannie Mae,
13 and Counter-Defendant The Falls at Rhodes Ranch Condominium Owners Association, Inc.
14 (“HOA”), hereby jointly request that the Court amend the judgment to indicate it is final and
15 stipulate the following:

- 16 1. On December 5, 2014, Plaintiff filed an action in state court asserting claims for quiet
17 title against Fannie Mae. Dkt. No. 1-1.
- 18 2. In their responsive pleadings, Fannie Mae and FHFA each filed two substantively
19 identical counterclaims:
 - 20 a. A quiet title counterclaim against Plaintiff; and
 - 21 b. A declaratory judgment counterclaim against both Plaintiff and the HOA. *See*
22 Dkt. Nos. 6, 14.
- 23 3. The forms of relief associated with these two counterclaims were declarations that
24 a. 12 U.S.C. § 4617(j)(3) preempts a Nevada statute that could otherwise permit an
25 HOA foreclosure sale to extinguish Fannie Mae and FHFA’s property interest;
26 b. the HOA foreclosure sale at issue here did not extinguish Fannie Mae and
27 FHFA’s interest in the Property; and

c. the HOA foreclosure sale did not convey the subject property free and clear to Plaintiff. *Id.*

4. There are no longer any parties remaining in the case other than Plaintiff, the HOA, FHFA, and Fannie Mae. The Court dismissed Plaintiff's claims against CitiMortgage, Inc. on April 16, 2015. (Dkt. No. 34.) The Byrons were dismissed from the action on June 20, 2015. (Dkt. No. 47.) CCSF never appeared in the case.

5. On April 16, 2015, FHFA and Fannie Mae filed a Joint Motion for Summary Judgment. *See* Dkt. No. 26. The summary judgment motion sought the relief discussed in both the quiet title and declaratory judgment counterclaims asserted by FHFA and Fannie Mae—a declaration that (1) 12 U.S.C. § 4617(j)(3) preempts any Nevada law that could permit an HOA foreclosure sale to extinguish a property interest of Fannie Mae while it is under FHFA’s conservatorship; and (2) the HOA Sale did not extinguish Fannie Mae’s interest in the Property, and thus Plaintiff took an interest in the Property subject to the Deed of Trust. *See* MSJ at 12-13. This requested relief was materially the same as requested in Fannie Mae and FHFA’s quiet title and declaratory relief counterclaims, providing for the opposite declaration as that requested by Plaintiff in its quiet title claims.

6. On June 24, 2015, this Court entered an Order granting the summary judgment motion of FHFA and Fannie Mae. *Skylights LLC v. Byron*, No. 2:15-CV-00043-GMN-VCF, 2015 WL 3887061 (D. Nev. June 24, 2015) (Dkt. No. 48). The Order held, among other things, that (1) “the HOA’s foreclosure sale … did not extinguish Fannie Mae’s interest in the Property secured by the Deed of Trust;” (2) “the HOA’s foreclosure sale … did not … convey the Property free and [clear] to Skylights; and (3) Plaintiff “purchased real property subject to FHFA’s lienhold interest.” *Id.* at *7 n.4, 12.

7. The Order denied the relief requested in Plaintiff's quiet title claims, because it held that the Deed of Trust was not extinguished. Indeed, the Order explicitly stated that

summary judgment was granted to Fannie Mae and FHFA “on Skylights’s claims for quiet title.” *Id.* at *12. This Order was followed by a Judgment. (Dkt. No. 49.)

8. On July 15, 2015, FHFA and Fannie Mae filed a Motion to Correct the Judgment, asking that the Judgment reflect the declaration in the Order, clarify that the Court resolved all outstanding claims and counterclaims, and confirm that it should be treated as a final and appealable judgment. (Dkt No. 52.) Among other things, FHFA and Fannie Mae argued that the Order resolved their quiet title counterclaims because the conclusion of the Order granted the relief requested in that counterclaim, *i.e.* a declaration that Plaintiff’s interest was purchased “subject to FHFA’s lienhold interest.” No party opposed the motion.

9. On August 24, 2015, the Court partially granted FHFA and Fannie Mae’s Motion to Correct the Judgment, and ordered that the judgment contain the declaration requested in FHFA and Fannie Mae’s counterclaims for declaratory judgment. (Dkt. No. 58.) The Court did not grant the motion insofar as it requested that the judgment reflect that FHFA and Fannie Mae were granted summary judgment on their quiet title counterclaims. The Court ordered that FHFA and Fannie Mae file a status report regarding their quiet title counterclaim and whether discovery was warranted.

10. On September 4, 2015, FHFA and Fannie Mae filed the requested status report, expressing their view that no further discovery was necessary with regard to their quiet title counterclaims because the declaration articulated in the Court’s June 24, 2015 Order already provided the relief requested in their quiet title counterclaims. No party filed an opposition to that report.

11. On September 23, 2015, Plaintiff filed a Notice of Appeal of the Court’s June 24, 2015 Order. (Dkt. No. 60.)

12. On September 25, 2015, the Clerk of Court for the Ninth Circuit ordered that Plaintiff show cause why the appeal should not be dismissed for lack of jurisdiction because the quiet title counterclaims had not yet been resolved. *See Clerk Order, Skylights v. Byron, No. 15-16904 (9th Cir.) (Dkt. No. 2).*

1 13. On October 23, 2015, Plaintiff filed a response to the order to show cause. *See*
 2 Response, *Skylights v. Byron*, No. 15-16904 (9th Cir.) (Dkt. No. 4). In its response,
 3 Plaintiff argues, among other things, that the Court's June 24, 2015 Order is
 4 effectively final because the relief requested in both of FHFA and Fannie Mae's
 5 counterclaims was the same as that granted by this Court.

6 14. FHFA and Fannie Mae do not intend to oppose Plaintiff's response to the Clerk's
 7 Order but rather file a short explanation of the status of this case to the Clerk.

8 15. The Parties respectfully request that the Court amend its Judgment to reflect that it is
 9 final and it resolves all claims and counterclaims in this case, including FHFA and
 10 Fannie Mae's quiet title counterclaims. Whether or not Plaintiff is correct in its
 11 argument that the Court's June 24, 2015 Order is already effectively final and
 12 appealable, any doubt that the Ninth Circuit lacks jurisdiction over Plaintiff's appeal
 13 would be dispelled if this Court were to revise the Judgment.

14 Nothing in this stipulation is intended to indicate that Plaintiff or the HOA waive their
 15 right to appeal the Court's judgment in favor of FHFA and Fannie Mae on any and all of the
 16 claims and counterclaims asserted in this case.

17 DATED this 9th day of November, 2015.

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[PROPOSED] ORDER

Pursuant to the Stipulation above, and for good cause appearing therefor,

IT IS HEREBY ORDERED that the Judgment issued on June 24, 2015, (ECF No. 49), be amended to reflect that it is a final judgment that resolves all claims and counterclaims in this case in favor of Fannie Mae and FHFA.

Dated this 23 day of November, 2015.

UNITED STATES DISTRICT COURT JUDGE